

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

SYLVESTER E. HARDING, III,)
)
)
Plaintiff,)
)
v.) 1:14CV611
)
LYNN SUMMERS, et al.,)
)
Defendant(s).)

ORDER AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE

Plaintiff, a prisoner of the State of North Carolina, submitted a civil rights action pursuant to 42 U.S.C. § 1983. The form of the Complaint is such that serious flaws make it impossible to further process the Complaint. The problems are:

1. The filing fee was not received nor was a proper affidavit to proceed *in forma pauperis* submitted, with sufficient information completed or signed by Plaintiff, to permit review.
2. Plaintiff makes a conclusory allegation that each of the named Defendants were personally involved in the alleged violation of his rights, but sets out no facts to support this allegation as to each Defendant.
3. Plaintiff primarily alleges that Defendants violated his rights by keeping him in segregation, which deprived him of any time for recreation on the weekends. However, he does not set out the length of this alleged deprivation or any other associated conditions, which are critical to determining whether such allegations can state a claim for relief. See Hatch v. District of Columbia, 184 F.3d 846 (D.C. Cir. 1999). He also alleges that Defendants extended his stay in administrative segregation without allowing an appearance in front of the Facility Classification Committee. He does not explain how this violated his federal constitutional rights.

Consequently, the Complaint should be dismissed, but without prejudice to Plaintiff filing a new complaint, on the proper § 1983 forms, which corrects the defects of the present Complaint. To further aid Plaintiff, the Clerk is instructed to send Plaintiff new § 1983 forms, instructions, an application to proceed *in forma pauperis*, and a copy of pertinent parts of Federal Rule of Civil Procedure 8 (*i.e.*, Sections (a) & (d)).

In forma pauperis status is granted for the sole purpose of entering this Order and Recommendation.

IT IS THEREFORE ORDERED that *in forma pauperis* status is granted for the sole purpose of entering this Order and Recommendation. The Clerk is instructed to send Plaintiff § 1983 forms, instructions, an application to proceed *in forma pauperis*, and a copy of pertinent parts of Federal Rule of Civil Procedure 8 (*i.e.*, Sections (a) & (d)).

IT IS RECOMMENDED that this action be filed and dismissed *sua sponte* without prejudice to Plaintiff filing a new complaint, on the proper § 1983 forms, which corrects the defects cited above.

This, the 7th day of January, 2015.

/s/ Joi Elizabeth Peake
United States Magistrate Judge